

REMARKS

For the Examiner's convenience and reference, Applicant's remarks are presented in substantially the same order in which the corresponding issues were raised in the Office Action. Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references. In addition, Applicant requests that the Examiner carefully review any references discussed below to ensure that Applicant's understanding and discussion of the references, if any, is consistent with the Examiner's understanding.

STATUS OF THE CLAIMS

Claims 1-20 were examined and remain pending. Claims 1-20 stand rejected.¹ No claims stand objected to. No claims have been canceled. No claims have been amended. No new claims have been added. No new matter has been added.

RESPONSE TO CLAIM REJECTIONS UNDER 35 U.S.C. § 102(b)

Claims 1, 2, 7, 10-12, 14, 16, and 20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by IBM Technical Disclosure Bulletin (NN950835) (hereinafter "IBM TDB"). Applicant respectfully submits that these claims are patentable over the cited reference because the cited reference does not teach each and every element of these claims. Accordingly, Applicant traverses this rejection as outlined below.

With regard to the rejection of independent claim 1, Applicant respectfully submits that claim 1 is patentable over the cited reference. Claim 1 states:

An apparatus for automatic airflow damping, the apparatus comprising:
an enclosure comprising an orifice configured to pass air;

¹ The Office Action Summary states that claims 1-20 stand rejected. However, the Office Action fails to offer any basis for the rejection of claims 6, 13, or 19. Explanations for the rejection of these claims under either 35 U.S.C. § 102 or § 103 are lacking.

an orifice cover having an open position configured to permit airflow through the orifice and a closed position configured to block airflow through the orifice; and
a cover actuator configured to move the orifice cover from the open position to the closed position in response to removal of an air moving device.

(emphasis added).

To support the rejection of claim 1, the Office Action generally references the entire IBM TDB document. In response to Applicant's previous remarks dated September 7, 2004, the Office Action states the following:

. . . applicant is directed to paragraph 5 of the IBM TDB where it states *By the addition of a flap as described below, which will close automatically and shut off the air flow when the fan is removed.* This reference's **actuator accomplishes the same result as the applicant's actuator through a combination of a spring, gravity and airflow** which when broadly read meets the limitations of applicant's actuator, which is not immune to natural phenomenon such as gravity.

Office Action, 1/10/2005, pp. 3-4 (italics in original, bold added).

Applicant respectfully disagrees with the Office Action's characterization of the cited reference. As described immediately below, IBM TDB fails to teach a cover actuator as recited in claim 1.

As described in Applicant's previous remarks dated September 7, 2004, IBM TDB discloses a flap 3 that is moved to cover an orifice 2 in an enclosure in response to gravity (IBM TDB, para. 7) or air pressure (IBM TDB, para. 8). IBM TDB also teaches an integrally molded spring 6 that may initiate closure of the flap 3, but only partially closes the flap 3 (to about 30 degrees) to allow air pressure to completely close the flap 3 (IBM TDB, para. 8).

Thus, IBM TDB discloses a flap 3 that will only close an orifice 2 when the flap 3 is oriented with "its pivot uppermost" to allow the force of gravity to close the flap 3 or when airflow is sufficient to move the flap 3 from a partially closed position to a fully closed position. In other words, the flap 3 will not fully close in the absence of either gravity or sufficient airflow. The spring 6 by itself is not sufficient to fully close the flap 3.

Foremost, the Office Action's assertion that the "actuator accomplishes the same result as the applicant's actuator through a combination of a spring, gravity and airflow" fails to point out what the Examiner believes to be the anticipatory subject matter purportedly disclosed by IBM TDB. In particular, the Office Action fails to point out what structure disclosed in IBM TDB anticipates the structure recited in claim 1. However, the only possible structure referenced by the Office Action is the spring 6 because neither gravity nor airflow alone could anticipate the structural "cover actuator" recited in claim 1.

With regard to the spring 6 by itself, IBM TDB does not anticipate the cover actuator of claim 1. In particular, the spring 6 "provides enough force to close the flap approximately 30." (IBM TDB, para. 8). IBM TDB does not teach a spring that provides enough force to close the flap 3 all the way. This is consistent with further reference to the spring 6 in IBM TDB, which states that "the flap gives no resistance and automatically pivots out of the way while the fan assembly slides beneath it." (IBM TDB, para. 9). In other words, the spring 6 provides some force to initiate closure of the flap 3, but does not provide any force (i.e. no resistance) to the flap 3 when it is fully closed.

Furthermore, the Examiner's citation of "*a flap as described below, which will close automatically and shut off the air flow when the fan is removed*" confuses automatic closure of the flap 3 with disclosure of a cover actuator. The citation describes automatic closure of the flap 3. It does not disclose a cover actuator, as recited in claim 1.

Within the context of IBM TDB, the spring 6, if present, only partially closes the flap 3. In one instance, it is "the air stream which will close it [the flap 3] completely." (IBM TDB, para. 8). In another instance, "gravity will always cause the flap to shut," assuming there are no physical obstructions. (IBM TDB, para. 7). Nothing in IBM TDB states that the spring 6 is capable of fully closing the flap 3. Rather, IBM TDB only discloses a spring 6 that partially closes the flap 3.

In contrast, claim 1 recites "**a cover actuator** configured to move the orifice cover from the open position **to the closed position**" (emphasis added). In other words, the cover actuator moves the orifice cover to the closed position. The cover actuator does so regardless of gravity

or airflow through the orifice. That is not to say that the cover actuator is “immune” to the effects of gravity. Rather, the cover actuator fully closes the orifice cover “to the closed position” regardless of the orientation of the orifice cover and the corresponding effects of gravity. Similarly, the cover actuator fully closes the orifice cover “to the closed position” regardless of positive or negative air flow through the orifice or pressure within the enclosure. Therefore, the combination of the spring 6 and the airflow disclosed in IBM TDB also fails to anticipate cover actuator recited in claim 1.

With regard to a combination of the spring 6 and gravity, IBM TDB fails to disclose such combination. Similarly, IBM TDB fails to disclose a combination of gravity and airflow. Furthermore, IBM TDB fails to disclose a combination of the spring 6, gravity, and airflow. Therefore, none of these combinations could anticipate the cover actuator recited in claim 1.

Therefore, for the reasons stated above, IBM TDB fails to teach all of the elements recited in claim 1. Accordingly, the Office Action fails to establish a *prima facie* case of anticipation because the cited reference fails to teach every element of amended claim 1. Given that the cited reference fails to teach all of the elements recited in claim 1, Applicant respectfully submits that independent claim 1 is patentable over the cited reference. Applicant also requests that the rejection of claim 1 under 35 U.S.C. § 102(b) be withdrawn.

Given that dependent claims 2-13 depend from claim 1, Applicant respectfully submits that claims 2-13 are also patentable over the cited reference. Accordingly, Applicant requests that the rejection of dependent claims 2, 7, and 10-12 under 35 U.S.C. § 102(b) be withdrawn. Similarly, Applicant requests that the rejection of dependent claims 3-5 and 8-9 under 35 U.S.C. § 103(a) be withdrawn.

With regard to the rejection of independent claim 14, Applicant respectfully submits that claim 14 is patentable over the cited reference. Claim 14 states:

An apparatus for automatic airflow damping, the apparatus comprising:
means for passing air through an orifice in an enclosure in order to cool
electronic components in the enclosure; and
**means for moving an orifice cover from an open position to a closed
position** in response to removal of an air moving device associated
with the orifice.

(emphasis added).

To support the rejection of claim 14, the Office Action generally references the entire IBM TDB document and, in response to Applicant's previous remarks dated September 7, 2004, states the text reproduced above on page 3 of this response. Applicant respectfully disagrees with the Office Action's characterization of the cited reference. As described immediately below, IBM TDB fails to teach a means for moving an orifice cover as recited in claim 14.

Given that a "means" corresponds to a structural element, claim 14 is not anticipated by IBM TDB unless IBM TDB discloses such a structural element, which it does not. In particular, IBM TDB fails to disclose a structural means for moving an orifice cover from an open position to a closed position. IBM TDB only discloses a structural element, the spring 6, for partially closing the flap 3. IBM TDB does not disclose a structural element for fully closing the flap 3 in the absence of gravity or airflow.

In contrast, claim 14 recites "**means for moving an orifice cover from an open position to a closed position**" (emphasis added). In other words, the structural means moves the orifice cover to the closed position. The cover actuator does so regardless or in spite of gravity or airflow through the orifice. Therefore, IBM TDB fails to anticipate the structural means recited in claim 14.

Therefore, for the reasons stated above, IBM TDB fails to teach all of the elements recited in claim 14. Accordingly, the Office Action fails to establish a *prima facie* case of anticipation because the cited reference fails to teach every element of claim 14. Given that the cited reference fails to teach all of the elements recited in claim 14, Applicant respectfully submits that independent claim 14 is patentable over the cited reference. Applicant also requests that the rejection of claim 14 under 35 U.S.C. § 102(b) be withdrawn.

Given that dependent claim 15 depends from claim 14, Applicant respectfully submits that claim 15 is also patentable over the cited reference. Accordingly, Applicant requests that the rejection of dependent claim 15 under 35 U.S.C. § 103(a) be withdrawn.

With regard to the rejection of independent claim 16, Applicant respectfully submits that claim 16 is patentable over the cited reference. Claim 16 states:

A method for automatic airflow damping, the method comprising:
passing air through an orifice in an enclosure in order to cool electronic components in the enclosure;
moving an orifice cover from an open position to a closed position in response to removal of an air moving device associated with the orifice; and
sealing between the enclosure and the orifice cover to block airflow between the enclosure and the orifice cover while in the closed position.

(emphasis added).

To support the rejection of claim 1, the Office Action generally references the entire IBM TDB document. In response to Applicant's previous remarks dated September 7, 2004, the Office Action states the following:

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a physical seal and maintaining the flap closed in the absence of an air stream to close the flap) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). **The above recitation of *shut off* is broadly considered a seal without further structural limitations by applicant.**

Office Action, 1/10/2005, p. 4 (italics in original, bold added).

Applicant respectfully disagrees with the Office Action's characterization of the cited reference. As described immediately below, IBM TDB fails to teach sealing as recited in claim 16.

Claim 16 is not anticipated by IBM TDB unless IBM TDB discloses every element recited in claim 16, which it does not. In particular, IBM TDB fails to disclose sealing between the enclosure and the orifice cover, as recited in claim 16. IBM TDB only discloses closing the flap 3, which refers to moving the flap 3 relative to a starting position and a stopping position. IBM TDB does not disclose sealing the gap between the flap 3 and an enclosure.

Closing the flap 3 is akin to shutting a door, in which case the door moves relative to a starting position (away from a door jamb) and a stopping position (adjacent to a door jamb).

However, closing a door is not the same as sealing a door, which relates to minimizing or completely stopping airflow between the door and the jamb.

Similarly, closing the flap 3 simply places the flap 3 adjacent to the fan aperture. Closing the flap 3 does not ensure a seal between the flap 3 and the enclosure surrounding the fan aperture. This is similar to the description of the flap 3 in the open position when a new fan assembly is installed, in which the flap 3 may be held against the fan assembly by the spring 6 in order to “[block] the air path” (IBM TDB, para. 9). In other words, the flap 3 only blocks the air path, it does nothing to seal the gap between the flap 3 and the enclosure (or the new fan assembly). Likewise, a door may block an air path through a doorway, but that configuration does not imply that there is a seal between the door and the jamb. Therefore, IBM TDB only discloses closing the flap 3, but does not disclose sealing between the flap 3 and the enclosure.

In contrast, claim 16 recites “**sealing between the enclosure and the orifice cover to block airflow between the enclosure and the orifice cover while in the closed position**” (emphasis added). Therefore, IBM TDB fails to anticipate the sealing operation recited in claim 16.

Therefore, for the reasons stated above, IBM TDB fails to teach all of the elements recited in claim 16. Accordingly, the Office Action fails to establish a *prima facie* case of anticipation because the cited reference fails to teach every element of claim 16. Given that the cited reference fails to teach all of the elements recited in claim 16, Applicant respectfully submits that independent claim 16 is patentable over the cited reference. Applicant accordingly requests that the rejection of claim 16 under 35 U.S.C. § 102(b) be withdrawn.

Given that dependent claims 17-19 depend from claim 16, Applicant respectfully submits that claims 17-19 are also patentable over the cited reference. Accordingly, Applicant requests that the rejection of dependent claims 17-18 under 35 U.S.C. § 103(a) be withdrawn.

With regard to the rejection of independent claim 20, Applicant respectfully submits that claim 20 is patentable over the cited reference. Claim 20 states:

A system utilizing automatic airflow damping, the system comprising:
a plurality of electronic components;
an enclosure configured to enclose the plurality of electronic components,
the enclosure comprising an orifice configured to pass air;

an orifice cover having an open position configured to permit airflow through the orifice and a closed position configured to block airflow through the orifice; and
a cover actuator configured to move the orifice cover from the open position to the closed position in response to removal of an air moving device.

(emphasis added).

To support the rejection of claim 20, the Office Action generally references the entire IBM TDB document and, in response to Applicant's previous remarks dated September 7, 2004, states the text reproduced above on page 3 of this response. Applicant respectfully disagrees with the Office Action's characterization of the cited reference. As described immediately below, IBM TDB fails to teach a cover actuator as recited in claim 20.

Claim 20 is not anticipated by IBM TDB unless IBM TDB discloses every element recited in claim 20, which it does not. In particular, IBM TDB fails to disclose a cover actuator configured to move an orifice cover from an open position to a closed position. IBM TDB only discloses the spring 6 that partially closes the flap 3. IBM TDB does not disclose any structural element that fully closes the flap 3 in the absence of gravity or airflow.

In contrast, claim 20 recites "**a cover actuator** configured to move the orifice cover from an open position **to a closed position**" (emphasis added). In other words, the cover actuator moves the orifice cover completely to the closed position. The cover actuator does so regardless or in spite of gravity or airflow through the orifice. Therefore, IBM TDB fails to anticipate the cover actuator recited in claim 20.

Therefore, for the reasons stated above, IBM TDB fails to teach all of the elements recited in claim 20. Accordingly, the Office Action fails to establish a *prima facie* case of anticipation because the cited reference fails to teach every element of claim 20. Given that the cited reference fails to teach all of the elements recited in claim 20, Applicant respectfully submits that independent claim 20 is patentable over the cited reference. Applicant accordingly requests that the rejection of claim 20 under 35 U.S.C. § 102(b) be withdrawn.

RESPONSE TO CLAIM REJECTIONS UNDER 35 U.S.C. § 103(a)

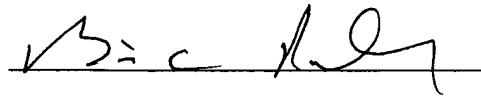
Claim 3 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over IBM TDB in view of U.S. Patent No. 5,963,538 to Fujimura et al. (hereinafter “Fujimura”). Claims 4, 5, and 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over IBM TDB in view of U.S. Patent No. 5,646,823 to Amori et al. (hereinafter “Amori”). Claims 8, 9, 17, and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over IBM TDB.

Applicant respectfully submits that these claims are patentable over the cited references. In particular, claims 3-5 are patentable because claims 3-5 depend from independent claim 1, which is patentable, as described above. Similarly, claim 15 is patentable because claim 15 depends from independent claim 14, which is patentable. Similarly, claims 17-18 are patentable because claims 17-18 depend from independent claim 16, which is patentable. Accordingly, Applicant requests that the rejection of claims 3-5, 15, and 17-18 under 35 U.S.C. § 103(a) be withdrawn.

CONCLUSION

As a result of the presented amendments and remarks, Applicant asserts that claims 1-20 are patentable and in condition for prompt allowance. Should additional information be required regarding the amendment or traversal of the rejections of the independent and dependent claims enumerated above, the Examiner is respectfully asked to notify Applicant of such need. If any impediments to the prompt allowance of the claims can be resolved by a telephone conversation, the Examiner is respectfully requested to contact the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'B. C. Kunzler', is written over a horizontal line.

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